

STEPSKI v.
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[1] **Merriam**
 [2] A: I am not sure of the duration of
 [3] his treatment.
 [4] Q: Well, you saw Dr. Small's notes,
 [5] right?
 [6] A: Yes, yes.
 [7] Q: And to your knowledge, is that the
 [8] full extent of Mr. Roderick's visits with Dr.
 [9] Small?
 [10] A: I would have to look at the notes
 [11] to refresh my recollection.
 [12] She saw him twice and then there
 [13] were no shows appointments.
 [14] Oh, okay. He was seen four times.
 [15] Five — okay. There was a total of five
 [16] appointments, she says.
 [17] Q: Do you know how Mr. Roderick and
 [18] Mr. Stepski became patients of Dr. Small?
 [19] A: No, I don't.
 [20] Q: Do you have any thoughts in terms
 [21] of Dr. Small's treatment of Mr. Roderick and
 [22] Mr. Stepski?
 [23] A: Neither individual received
 [24] medication, which is a mainstay of treatment,
 [25] and she is a psychologist. So she is not

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[1] **Merriam**
 [2] were not eligible.
 [3] Q: There are doctors, psychiatrists
 [4] who accept Medicaid, correct?
 [5] A: No. I don't know any Medicaid
 [6] pays so little for outpatient therapy that it's
 [7] —
 [8] Q: Okay. You don't know one way or
 [9] the other if there were doctors available?
 [10] A: I don't know if they were eligible
 [11] and I don't know if there was someone who was
 [12] available to see them.
 [13] Q: But in terms of —
 [14] A: But I think it would have been
 [15] indicated.
 [16] Q: Dr. Small's treatment of
 [17] Mr. Stepski, do you have any other comments?
 [18] A: No.
 [19] Q: Was it appropriate otherwise?
 [20] A: It doesn't seem so much treatment,
 [21] again, as him expressing what his feelings were.
 [22] And historically, I don't really see very much
 [23] in the way of therapy. But he had very little
 [24] contact with her.
 [25] Q: Sounds like the beginnings of some

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[1] **Merriam**
 [2] capable of prescribing medication. The
 [3] treatment with Mr. Roderick is mostly
 [4] descriptive of what he is telling her, that
 [5] there was really minimal contact with her, five
 [6] visits spread over quite awhile.
 [7] The visits with Mr. Stepski were
 [8] —
 [9] Q: Now I got you saying his name
 [10] wrong.
 [11] A: Mr. Stepski were, I think, a bit
 [12] more extensive.
 [13] Q: Is it your belief Dr. Small should
 [14] have referred these men to a psychiatrist so
 [15] that they could have had medication prescribed
 [16] early on?
 [17] A: Well, they had no way of paying
 [18] for treatment, because I inquired. They had no
 [19] way of paying for medication and they had no
 [20] insurance to pay for medication. But I think —
 [21] Q: Do you know if they were eligible
 [22] for Medicaid?
 [23] A: I think if they were eligible for
 [24] Medicaid, they probably would have had Medicaid.
 [25] But I don't specifically know that they were or

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[1] **Merriam**
 [2] kind of counseling?
 [3] A: That never went very far, yes.
 [4] Q: Okay. Your exam of Mr. Roderick,
 [5] again, you noted no objective symptoms?
 [6] A: No signs, no objective signs.
 [7] Q: No objective signs of P.T.S.D.?
 [8] A: They — when you see a patient
 [9] with P.T.S.D., they look just like a patient who
 [10] doesn't have P.T.S.D. The difference is what
 [11] they tell you their experiences and the
 [12] evaluation is to elicit their history and their
 [13] subjective experience.
 [14] Q: Did you discuss in detail any
 [15] further with Mr. Roderick what other stressors
 [16] he may have been experiencing in his life in
 [17] connection with the time of the accident or
 [18] shortly thereafter?
 [19] A: He told me that his ex-wife was
 [20] living in his father's home and that that was an
 [21] unusual thing for him. He didn't describe any
 [22] other life stressors to me.
 [23] Q: Did he describe any other
 [24] stressors which might be attributable to one or
 [25] more of the symptoms which support the

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[1] diagnosis — your diagnosis of P.T.S.D.?
[2] [3] A: No.
[4] Q: Mr. Schrober —
[5] A: Schober.
[6] Q: Schober, thank you. I believe
[7] that's Exhibit 9.
[8] Can we agree basically his life
[9] was not all roses and songs before the incident?
[10] A: Can you repeat that question,
[11] please?
[12] Q: He had some serious problems
[13] before the incident, correct?
[14] A: Yes.
[15] Q: Including he was probably an
[16] alcoholic?
[17] A: Yes.
[18] Q: Including he was probably a drug
[19] addict or at least a frequent user of marijuana,
[20] cocaine?
[21] A: Frequent user, substance abuser.
[22] Q: Okay. Are you aware Mr. Schrober
[23] had obtained a certificate for completing an
[24] outpatient alcohol program only two days before
[25] the accident?

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Merriam

[1] collision?
[2] [3] A: No.
[4] Q: Were you aware that Mr. Schober
[5] had separated from his wife before the accident,
[6] separated sometime in April of 2004?
[7] A: Yes. He told me that he separated
[8] from his wife before the accident, because they
[9] had been fighting constantly.
[10] Q: So it's fair to say that
[11] Mr. Schober's relationship with his now ex-wife,
[12] the accident was not the cause of that
[13] relationship going sour?
[14] A: His account to me was the accident
[15] put the nail in the coffin of the marriage. But
[16] it sounds like the marriage was already in a
[17] coffin.
[18] Q: Just waiting for the pallbearers
[19] to show up?
[20] A: Well, again, his statement was the
[21] accident put the nail in the coffin.
[22] Q: What did you —
[23] A: That things were bad and this was
[24] the final event.
[25] Q: Do you know enough to make any

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Merriam

[1] [2] A: I don't recall that offhand.
[3] Q: He didn't tell you that, did he?
[4] It's not in your report, Doctor?
[5] A: Then he didn't tell me.
[6] Q: Okay. Did he tell you that
[7] despite having obtained the certificate, he was
[8] drinking probably during the time that he was
[9] doing the outpatient program and certainly in
[10] the day or so after — I am sorry — day or so
[11] before going on the boat?
[12] A: We discussed his alcohol
[13] consumption and clearly he was a problem
[14] drinker. He had repeated DUIs. And was
[15] drinking excessively.
[16] Q: Were you aware that it was
[17] Mr. Schober who had brought the beer onboard the
[18] boat?
[19] A: No.
[20] Q: Were you aware that on the day of
[21] the accident, Mr. Schober tested positive for
[22] marijuana?
[23] A: No.
[24] Q: And that he had been drinking, he
[25] admits to having been drinking after the

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Merriam

[1] professional judgment one way or the other as to
[2] whether the accident was causative of his
[3] marriage ending?
[4] A: I think that would be a hard
[5] statement to make.
[6] Q: Okay. Were you aware that
[7] Mr. Schober had been prescribed Xanax prior to
[8] the accident?
[9] A: No.
[10] Q: And that he was taking Xanax which
[11] was prescribed by a Dr. Hong, H-O-N-G, since the
[12] middle of May 2004, having been prescribed for
[13] anxiety in respect to his upcoming divorce?
[14] A: No, I did not know that.
[15] Q: Would that impact in any way upon
[16] your opinions that you have rendered in
[17] connection with Mr. Schober?
[18] A: Certainly if he had pre-existing
[19] anxiety, I would have to evaluate the extent to
[20] which any specific anxiety symptoms were the
[21] result of the accident.
[22] But as I enumerated them in my
[23] conclusion, he had — the fact that he has
[24] recurrent recollections of the event is not

[1] **Merriam**
 [2] related to his marital situation and that
 [3] pre-existing anxiety. His efforts to avoid
 [4] feelings associated with the trauma are not
 [5] associated with the pre-existing anxiety. His
 [6] markedly diminished interest in activities is
 [7] not. His feelings of detachment from others is
 [8] not. Restricted range of affect he attributed
 [9] to the events. The trouble falling asleep and
 [10] staying asleep and trouble concentrating and
 [11] exaggerated startle, again, he attributed to the
 [12] event.
 [13] For example, he told me when he
 [14] tries to return to sea, he felt so nervous that
 [15] he couldn't push himself. That he was jumpy
 [16] when he heard noises and had nightmares. So I
 [17] think he would have sufficient criteria for
 [18] P.T.S.D. even without the general anxiety.
 [19] Q: You saw Mr. Schober without having
 [20] had any records to review of any kind, right?
 [21] A: That's right.
 [22] Q: No depositions, no medicals?
 [23] A: That's right.
 [24] Q: Would it be important to you to
 [25] have seen his deposition?

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[1] **Merriam**
 [2] Q: And then went back to cooking?
 [3] A: Mowing lawns.
 [4] Q: He has done all kinds of stuff,
 [5] right?
 [6] A: Yes.
 [7] Q: In terms of your observation that
 [8] the fact that he — withdrawn.
 [9] You noted in responding to my
 [10] question a little while ago the fact that he
 [11] related to you difficulties in respect to sleep
 [12] support the diagnosis of P.T.S.D., correct?
 [13] A: Yes.
 [14] Q: As one of the things that you
 [15] relied on?
 [16] A: Yes.
 [17] Q: Okay. Do you agree that
 [18] alcoholics and substance abusers often report
 [19] difficulties in respect to sleeping?
 [20] A: Yes.
 [21] Q: In fact, there is literature that
 [22] makes that point —
 [23] A: Yes.
 [24] Q: — abundantly clear?
 [25] A: Yes. But he described nightmares

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[1] **Merriam**
 [2] A: I don't know what's in it.
 [3] Q: Well, when you are asked to
 [4] provide an expert opinion, is it important?
 [5] A: I rely on the referring attorneys
 [6] to furnish whatever they think is valuable for
 [7] me to form the opinion. In many cases there's
 [8] enormous quantities of material.
 [9] Q: Do you find it valuable to be
 [10] provided with the deposition of the person you
 [11] are being asked to opine upon?
 [12] A: To the extent that it's relevant,
 [13] yes. But I have no way of judging if it's
 [14] relevant.
 [15] Q: Is it important also as an expert
 [16] to obtain the most full and complete medical
 [17] records concerning someone who you are being
 [18] asked to evaluate?
 [19] A: To the extent that they are
 [20] relevant, yes.
 [21] Q: Were you aware what Mr. Schober
 [22] had changed careers a number of times and that
 [23] he started out as a cook, went into commercial
 [24] fishing?
 [25] A: Yes.

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[1] **Merriam**
 [2] a few times a week often involving boating
 [3] accidents in which he is about to get hurt. So
 [4] that's specific to his own experience and not
 [5] attributable to alcohol substance use.
 [6] Q: Did you inquire as to whether
 [7] there had been any change in frequency in
 [8] respect to the number of times that he
 [9] experiences these nightmares?
 [10] A: Yes. He said the nightmares have
 [11] not become less frequent or less intense.
 [12] Q: Is that typical in your experience
 [13] of dealing with P.T.S.D. patients?
 [14] A: Some patients, they will become
 [15] less frequent, less intense. Others will be
 [16] persistent.
 [17] Q: Again, this is all subjective,
 [18] right?
 [19] A: Yes.
 [20] Q: In terms of the flashbacks that he
 [21] related to you —
 [22] A: Yes.
 [23] Q: — what part of the incident did
 [24] he say that he experiences in his flashbacks?
 [25] A: He said he relived the experiences

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[1] [2] of a collision and he didn't say which aspect of
[3] the accident was so vivid.
[4] Q: Is there any significance
[5] clinically as to what portion of the experience
[6] one has in terms of flashbacks?
[7] A: Not so much. Typically involves
[8] the most frightening portion of the event.
[9] Q: But you don't know what portion of
[10] the event he —
[11] A: No.
[12] Q: — experienced flashbacks on?
[13] A: No.
[14] Q: He says he has them sometimes when
[15] doing completely unrelated things, like mowing
[16] the lawn?
[17] A: Yes.
[18] Q: Is that typical that one would
[19] have a flashback when — without some kind of
[20]ividication?
[21] A: Yes, it can — it's typical, it
[22] can happen.
[23] Q: Okay.
[24] A: Sometimes they are entirely out of
[25] the blue.

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Merriam

[1] [2] 18 beers a day?
[3] A: Yes.
[4] Q: From a physiological standpoint,
[5] what would happen to someone who drinks six to
[6] 18 beers a day?
[7] A: They would develop tolerance.
[8] They would become intoxicated, but they would
[9] have a high tolerance for alcohol.
[10] Q: Also might potentially develop
[11] cirrhosis of the liver?
[12] A: Yes.
[13] Q: Other physical complications?
[14] A: Potentially, yes.
[15] Q: He had at least two DUI arrests
[16] before the incident?
[17] A: He said a few. More than one. A
[18] few.
[19] Q: But he claimed he had been sober
[20] for a year prior to the incident?
[21] A: He said he resumed drinking a few
[22] months prior to the accident.
[23] Q: Right. Which would have been when
[24] he was in the course of his outpatient program?
[25] A: Yes.

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Merriam

[1] [2] Q: But he also said that he has these
[3] flashbacks when certain events remind him of the
[4] accident, such —
[5] A: Yes.
[6] Q: — as seeing a boat or something?
[7] A: Yes.
[8] Q: The flashbacks he said were now
[9] down to about once a month?
[10] A: That's what he said.
[11] Q: Okay. So they had become less
[12] persistent?
[13] A: Yes.
[14] Q: Now, his comment to you that it's
[15] hard for him to make commitments because he
[16] doesn't look far ahead, et cetera, is that also
[17] a typical statement of an alcoholic or drug
[18] abuser?
[19] A: Yes, it is.
[20] Q: Now, he has been drinking since he
[21] was 15?
[22] A: Yes.
[23] Q: He said that he drank heavily
[24] after he graduated from the culinary institute.
[25] And you have down he said he drank up to six to

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Merriam

[1] [2] Q: Okay. But after the accident, he
[3] started drinking up to a quarter gallon of vodka
[4] a day?
[5] A: That's what he said. It's a
[6] considerable amount.
[7] Q: Is that a classic sign of
[8] alcoholism?
[9] A: It's consistent with alcoholism.
[10] Q: And he said he felt he had to
[11] drink and would get shaky and feel the need for
[12] alcohol constantly?
[13] A: Which is another sign of
[14] alcoholism.
[15] Q: Do you attribute his increased
[16] drinking after the accident to the collision?
[17] A: As I said earlier, among the most
[18] common complications of P.T.S.D. are alcohol and
[19] substance abuse. We are seeing it now with
[20] the — as we did in the Vietnam War, we are
[21] seeing in the Iraq War that the guys are using
[22] drugs and alcohol to medicate themselves.
[23] So it's difficult to say that —
[24] it's very difficult to predict the future path
[25] of an alcoholic, when someone is drinking

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 [2] excessively, it tends to relapse and remit. But
 [3] from what he told me, he really went into a
 [4] tailspin after the accident. So I would say
 [5] it's partially a previous pattern of alcoholism
 [6] and partly the stress of the accident.
 [7] Q: That's, again, accepting what he
 [8] says as being truthful?
 [9] A: Yes.
 [10] Q: The DUI in November 2004 after the
 [11] accident, is that related in your view to the
 [12] collision?
 [13] A: I don't think I can say that. He
 [14] said that he is of the opinion that the
 [15] presumption of the problem drinking and the DUI
 [16] wouldn't have happened if it hadn't been for the
 [17] accident. It's a difficult attribution to make.
 [18] Q: You can't say one way or the
 [19] other?
 [20] A: Not definitively.
 [21] Q: Basically after he got out of
 [22] jail, he went on to a number of different jobs
 [23] and he has bounced from place to place?
 [24] A: That's what he told me.
 [25] Q: Again, typical of someone who has

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[1] **Merriam**
 [2] terms of his mood being somewhat depressed and
 [3] showing — displaying a sad affect during the
 [4] course of your exam?
 [5] A: I think there is enough going on
 [6] that the P.T.S.D. is one factor impacting the
 [7] trajectory of the man's life. But it's not the
 [8] sole factor.
 [9] Q: Same you would say for his
 [10] pessimistic attitude, lack of hope?
 [11] A: Yes.
 [12] Q: Were there any other symptoms that
 [13] he related which you also find to be causally
 [14] related to the incident?
 [15] A: Other than what I included in the
 [16] report, no.
 [17] Q: So fair to say with respect to
 [18] Mr. Schober that effectively it's difficult to
 [19] say what is P.T.S.D. symptomatology and what is
 [20] symptomatic of his alcohol and drug use?
 [21] A: Well, I think he does have
 [22] P.T.S.D. That the — it's not the only thing
 [23] that he has. He has P.T.S.D. and he has a
 [24] pre-existent substance abuse and alcohol
 [25] disorder. And that subsequent to his —

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[1] **Merriam**
 [2] been in jail, typical behavior of an alcoholic
 [3] and a drug abuser?
 [4] A: Yes.
 [5] Q: You said he was nervous, anxious
 [6] while he was undergoing his interview?
 [7] A: Yes.
 [8] Q: Okay. Did you believe that he was
 [9] suffering from anxiety as causally related to
 [10] the collision?
 [11] A: He describes many signs and
 [12] symptoms of P.T.S.D. So, again, the recurrent
 [13] recollections of the event and the images, all
 [14] of the things that we have been talking about
 [15] are typical of P.T.S.D. Because he had
 [16] pre-existent — because he has a complicated
 [17] history with pre-existent and then superimposed
 [18] substance abuse. And because of what you told
 [19] me before about having received Xanax before —
 [20] that was him? I am sorry. I am starting to get
 [21] a little tired.
 [22] Q: That was him.
 [23] A: Yeah. It's difficult to attribute
 [24] the anxiety necessarily to the accident.
 [25] Q: Okay. Would you say the same in

[1] **Merriam**
 [2] subsequent to the accident, the symptoms become
 [3] intertwined with each other, which is very
 [4] typical of patients with alcohol substance use
 [5] problems who develop P.T.S.D.
 [6] But this is envisioned in the
 [7] Diagnostic and Statistical Manual. Substance
 [8] abuse is described as a complicating clinical
 [9] phenomena. And they even specifically make
 [10] mention of the fact that people may have
 [11] symptoms while intoxicated.
 [12] So that, for example, in the
 [13] reexperiencing criteria, D —
 [14] Q: Can I just interrupt you one
 [15] second and take a look at exactly what you are
 [16] referring to?
 [17] A: Sure. Yes.
 [18] Q: Because I don't think I copied
 [19] that before.
 [20] A: It's just DSM-IV.
 [21] Q: I want to make sure that I am
 [22] working off the same version.
 [23] A: I will give you mine. Here.
 [24] Just — I will read it and then I will give it
 [25] to you.

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[1] [2] MR. WEIGEL: Hold on. We
[3] have a copy. If you let us see
[4] that, we will see if it's the same
[5] page.

[6] THE WITNESS: This is IV.

[7] That's IV-TR.

[8] MR. GARGAN: What page are
[9] you reading from?

[10] THE WITNESS: I will give
[11] you this. 428.

[12] Q: 428, okay.

[13] A: All right.

[14] Q: Diagnostic criteria 309.81.

[15] A: Yes. So criteria B-3 includes
[16] symptoms that occur when intoxicated. The
[17] reason that's there is because intoxication,
[18] substance use is such a frequent co-existent
[19] diagnosis with this disorder.

[20] Q: Well, did he relate to you that —

[21] A: No, no. I am just giving an
[22] example of the fact that the diagnostic criteria
[23] embrace the fact that there is frequently
[24] substance use, alcohol use problems with this
[25] disorder.

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Merriam

[1] [2] about.
[3] A: No.
[4] Q: I am sorry. 2007.
[5] A: No.
[6] Q: Is when he started with Dr.
[7] Friedman.
[8] A: No, I am not aware of that.
[9] Q: He didn't tell you about that?
[10] A: No.
[11] Q: He said that Dr. Friedman was
[12] treating him for P.T.S.D. And supposedly was
[13] trying to instruct him in terms of
[14] self-hypnosis. Would that be a typical —
[15] A: No, he didn't tell me about that.
[16] Q: Would self-hypnosis be a typical
[17] treatment course for P.T.S.D.?
[18] A: Various forms of relaxation
[19] desensitization are. So that may be
[20] Mr. Schober's understanding of that.
[21] Q: Because he also described Dr.
[22] Friedman as trying to hypnotize him and having
[23] him listen to subliminal tapes with messages
[24] such as, you need to love yourself and others,
[25] what he described as motivational tapes? Would

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[1] [2] Q: The alcoholism is triggered, in
[3] effect, layman's terms, by the P.T.S.D.?
[4] A: Or when there is pre-existent —
[5] certainly drug and alcoholism doesn't protect
[6] someone against P.T.S.D.

[7] Q: Right.

[8] A: So when someone is exposed to a
[9] stimulus competent of producing P.T.S.D.,
[10] whatever nature and history and adjustment level
[11] of that person, you know, the P.T.S.D. takes
[12] root in that setting. So someone who is a
[13] pre-existing substance or alcohol user is likely
[14] to have persistent problems and recurring
[15] problems. It's another complicating part of the
[16] picture.

[17] Q: Okay. Were you aware in respect
[18] to Mr. Schober that he was also being treated by
[19] a psychiatrist named Dr. Friedman — I am
[20] sorry — psychologist named Dr. Friedman
[21] starting in May of 2007 as a condition of his
[22] probation? It's not in your report.

[23] A: No, I wasn't aware of that. I saw
[24] him May 19, 2007.

[25] Q: Okay. This is 2004, I am talking

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[1] [2] that be typical treatment?
[3] A: No.
[4] Q: Okay. Would you agree or disagree
[5] that the three men that you saw experienced
[6] acute, horrendous, repeated and lengthy
[7] awareness of impending death, mutilation, et
[8] cetera?
[9] A: Repeated?
[10] Q: Yes.
[11] A: No.
[12] Q: Would you agree or disagree that
[13] the three men were plunged into a state of
[14] desperation, depression and despair as a result
[15] of this collision?
[16] A: I am just trying to go back to the
[17] repeated, which I answered no. The sense in
[18] which it's repeated only that there was a
[19] sequence of events, each of which had its own
[20] traumatic aspect to it. So they saw the ship
[21] coming, it wasn't like being in a car and, boom,
[22] something happens. This was a played-out
[23] sequence of events. So that they see the ship
[24] coming, they prepare for it, they are hoping it
[25] misses them, and they get — they hear it and

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[2] then the ship gets cut in half.
[3] Then they are in the water and
[4] they think they can't escape the water. And
[5] then they are in the raft and they think the
[6] raft is going to go down with the ship. So
[7] there was a sequence of events that could be
[8] construed as repeated traumas within a larger
[9] trauma.

[10] Could you read the second question
[11] again for me?

[12] Q: Sure. Would you agree or disagree
[13] that these three men were plunged into a state
[14] of desperation, depression, and despair as a
[15] result of the collision?

[16] A: Yes.

[17] Q: Would you agree that these three
[18] men suffered continuously over — from the time
[19] of the incident relentlessly at first and now at
[20] some less frequency?

[21] A: Yes.

[22] Q: Would you agree that all of them
[23] still endure, among other things, sleeplessness,
[24] reliving the experience, nightmares, constant
[25] uncertainty and fear of mishap?

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[1] require three to four years of intensive medical
[2] care and prescribed medication?

[3] A: Yes.

[4] Q: Do you also — what is your
[5] prognosis for these three if they do have
[6] treatment?

[7] A: Better than if they are not
[8] treated. The disorder is one that tends to be
[9] indelible. People generally do not return to
[10] their former selves ever. And there is
[11] typically a pattern of recurrence during life
[12] stress. But I think each of them deserves a
[13] trial of therapy and medication treatment.

[14] Q: And if they get medication and
[15] therapy, how do you expect Mr. Stepski will
[16] respond?

[17] A: I think he probably would respond
[18] pretty well.

[19] Q: What about Mr. Roderick?

[20] A: Mr. Roderick, I think, is less
[21] symptomatic than Mr. Stepski, but still should
[22] be treated. For Mr. Schober, the alcohol
[23] substance abuse was exacerbation is central and
[24] he needs not only psychiatric treatment for the

[1] ***Merriam***

[2] A: Yes.
[3] Q: Inability to function as they did
[4] before the occurrence?

[5] A: Yes.

[6] Q: Lack of self-worth?

[7] A: They all experienced depressive
[8] symptoms to varying degrees.

[9] Q: Do you equate lack of self-worth
[10] with depression?

[11] A: Yes.

[12] Q: Okay. Would you agree Stepski and
[13] Roderick also experienced destructive effect on
[14] their familial life and relationships?

[15] A: Stepski, yes. Roderick was
[16] already having marital problems. And he
[17] described this as being the nail in the coffin.
[18] So his perception was that there was not
[19] additive effect of a pre-existing problem.

[20] Q: Okay. And Schober experienced a
[21] renewal of an earlier destructive drinking
[22] habit?

[23] A: Yes.

[24] Q: Now, would you also agree that if
[25] they have the financial wherewithal, they would

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[1] P.T.S.D., but he also needs to be in alcohol
[2] substance abuse counseling or he is going to be
[3] in long-term trouble.

[4] Q: Okay. When you say the alcohol
[5] substance abuse for Schober is central, is that
[6] another way of saying that's his primary
[7] problem?

[8] A: If you are asking which is more
[9] important, I can't say. Clearly, he had a
[10] pre-existing problem. Just like with a lot of
[11] vets, there is a pre-existing problem and then
[12] the problem becomes insurmountable once there is
[13] P.T.S.D. So he needs treatment for both.

[14] I think the prognosis for his
[15] alcohol substance abuse issues, if the P.T.S.D.
[16] is not specifically addressed, the prognosis for
[17] the alcohol and substance abuse is poor.

[18] Q: When you compare the three of them
[19]

[20] A: Yes.

[21] Q: — who is the worst off in terms
[22] of their P.T.S.D.?

[23] A: I would say probably Stepski.

[24] Q: By a factor of what over Roderick?

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[2]	A: I can't answer that.
[3]	Q: Shades of gray?
[4]	A: Yes.
[5]	Q: In terms of the diagnostic
[6]	criteria for P.T.S.D. —
[7]	A: Uh-huh.
[8]	Q: — one of the criteria, C, is the
[9]	persistence avoidance of stimuli associated with
[10]	the trauma?
[11]	A: Yes.
[12]	Q: Right?
[13]	A: Yes.
[14]	Q: Effectively, we are talking about
[15]	avoiding putting yourself in the same situation
[16]	that gave rise to the incident that affected
[17]	you, right?
[18]	A: People try to avoid thinking of
[19]	the event, things that remind them of the event,
[20]	yes.
[21]	Q: So here we have Mr. Stepski and
[22]	Mr. Roderick, both regularly and very shortly
[23]	after the incident back on the horse, they are
[24]	out at sea, they are fishing?
[25]	A: Yes. With symptoms. So there are

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[1]	Merriam
[2]	for a second. He doesn't just do commercial
[3]	fishing, you are aware of that, right?
[4]	A: I would have to look at my
[5]	write-up again.
[6]	Q: If I told you that Mr. Roderick
[7]	also was a mechanic, how would that impact upon
[8]	your thinking in terms of his non-avoidance of
[9]	going back out on the boats?
[10]	A: I would have to say there is —
[11]	the extent to which a person had choices and
[12]	what the economics were of the choices and what
[13]	were the other factors associated with the
[14]	choices would all have to be analyzed. For
[15]	example, if he had other means of livelihood,
[16]	but it was less ruminative for him or involved
[17]	some other noxious quality that he didn't care
[18]	for, they all would have to be weighed.
[19]	Q: Okay.
[20]	A: Just the fact that someone resumes
[21]	an activity that they are frightened of
[22]	resuming —
[23]	Q: Okay. Did you —
[24]	A: — doesn't weigh against the fact
[25]	that they have P.T.S.D.

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[1]	Merriam
[2]	times, just like in Iraq right now, there are
[3]	guys who are experience symptoms. But they
[4]	don't have much of a choice about whether they
[5]	have to go back into the field and —
[6]	Q: Well, equating being in the
[7]	military with —
[8]	A: Fishing.
[9]	Q: — commercial fishing is —
[10]	A: No. I am just giving an example
[11]	that there are — just because an individual has
[12]	symptoms, there are other life factors that will
[13]	force them.
[14]	Q: Okay.
[15]	A: So a guy may be in a car accident
[16]	and be frightened to drive, but he has no
[17]	choice. If he doesn't drive, he is not going to
[18]	get to work. So has to grit his teeth and bear
[19]	it and experience the symptoms and try to deal
[20]	with them the best he can.
[21]	Q: Okay.
[22]	A: So I don't think these guys had
[23]	much of a choice in terms of their livelihood
[24]	and finding alternate employment.
[25]	Q: Well, let's look at Mr. Roderick

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[1]	Merriam
[2]	Q: Did you conduct such an analysis
[3]	in terms of your examination and subsequent
[4]	opinion in respect to Mr. Roderick or
[5]	Mr. Stepski or Mr. Schober?
[6]	A: They all told me that returning to
[7]	the ocean was something that was associated with
[8]	anxiety for them and created hypervigilance.
[9]	Q: But did you analyze whether these
[10]	three men had choices in which they could avoid
[11]	having to go back out on the boats?
[12]	A: I don't recall specifically going
[13]	into that.
[14]	Q: All right. Now, you mention in
[15]	your report concerning Mr. Stepski that at one
[16]	time he considered changing a career. Do you
[17]	think it would be a good idea for him to do
[18]	something else besides fishing if that
[19]	eliminates the stressors which trigger his
[20]	anxiety and other problems?
[21]	A: Well, first of all, he has
[22]	symptoms of P.T.S.D. even when he is off the
[23]	boat. It's not something that is exclusively
[24]	when he is on the boat. And for any particular
[25]	individual, the pros and cons of returning to a

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situation that that reminds them of the events that initiated the P.T.S.D. is an individual decision that should be taken up during therapy.

In other words, just because someone — an attorney gets, God forbid, gets in a car accident on the way to work, doesn't mean they stop being an attorney or stop driving a car. It's something that — it's a complex choice that needs to be evaluated during therapy.

Q: Is there someway other than going through the therapy process where one can come to some consideration in terms of whether —

A: Yes, I would say it's primarily a task for therapy. My role in evaluating them was to determine whether or not they met diagnostic criteria for the disorder. Not to counsel them as to what their future course of action should be in regard to their profession and choices that they had to make. That was not the purpose of the meeting.

Q: In terms of prescription drugs?

A: Yes.

Q: You believe it would be beneficial

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treatment, but they haven't undertaken to do so, would that be a failure on their part to assist in their own healing process?

A: If they had the ability to avail themselves of treatment, they should do so.

Q: Okay. Someone who has the ability to get treatment and doesn't, what does that suggest to you as a psychiatrist concerning their motivation?

A: It's something I would have to explore. I can't say generically that that has a meaning. There are many people who were frightened of going into psychiatric treatment and be locked in for one reason or another, because of stigma, because of timing, because of many different reasons. So I can't give —

Q: So you look at it on a case-by-case basis?

A: Yes.

Q: Just give me a minute or two, if you would.

A: Sure.

(Recess taken 4:41 p.m. to 4:44 p.m.)

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Q: Going back a few minutes, we were talking about avoiding the stressors, right?

A: Uh-huh.

Q: Does the fact that these men did go back and continue to go back to sea, in your view, is that presenting obstacle to them in terms of them getting any better?

A: Not necessarily. It may be adaptive. One of the goals of treatment is to try to minimize the extent to which an individual's activities are limited by the disorder. So the fact that they are going back even with symptoms is actually a sign of strength that they are able to force themselves to do something, even though it distresses them. So from the P.T.S.D. diagnostic perspective, the fact that the activity is associated with emotional distress is important for the diagnosis in terms of treatment. Whether they should try to find another position, another way of life or whether they should continue this, that's an important decision that should be discussed in treatment.

But, again, if a person were in a

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[1] car accident and never drove a car again because
 [2] it was so anxiety provoking for them, that would
 [3] not at all be a desirable outcome of treatment.
 [4] That is not — psychiatrists don't say, oh, we
 [5] will fix you. Just don't drive a car anymore.
 [6] The goal is that a person should be able to have
 [7] as full and productive a life as they can,
 [8] including all of their customary activities, but
 [9] with symptom reduction.
 [10] Q: Fair statement that it would be
 [11] better that these guys were in treatment and
 [12] going back to work under a supervised type of
 [13] scenario rather than just doing it on their own?
 [14] A: Yes.
 [15] Q: Okay. Is it also fair to say that
 [16] in going back without getting any treatment at
 [17] all, that they are potentially exacerbating the
 [18] conditions of which they are complaining,
 [19] exacerbating the anxiety and all of the other
 [20] problems?
 [21] A: Probably not. In fact, it may
 [22] even be good for them. It would have to be
 [23] determined on an individual basis.
 [24] But P.T.S.D. existed before there

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[1] A: Sure.
 [2] "Visually saw other boat coming
 [3] out of fog, headed right toward him. So
 [4] massive, less than a minute before collision.
 [5] Visual and knowing he will die had such a strong
 [6] effect on me."
 [7] Q: Okay. Thank you. Now —
 [8] A: You didn't think I could do that,
 [9] did you?
 [10] Q: I couldn't do it.
 [11] MR. UNGER: It's your
 [12] scroll, I hope you can read it.
 [13] Q: We marked as Exhibit 2 a letter
 [14] which you received from Mr. Healey. Do you have
 [15] that in front of you, please?
 [16] A: Yes.
 [17] Q: What use did you make of this
 [18] letter in coming to your opinion about
 [19] Mr. Stepski, Mr. Roderick and Mr. Schober?
 [20] A: Nothing.
 [21] Q: You received this letter in March
 [22] of 2007. And remind me again, when did you see
 [23] the three men?
 [24] MR. GARGAN: I think May 19,

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[1] were psychiatrists, before there were
 [2] psychotropic medications. And —
 [3] Q: People got on with their lives?
 [4] A: People got on with their lives and
 [5] struggled with the symptoms and struggled to
 [6] return to their customary activities.
 [7] Q: Okay. I am going to just review
 [8] my notes. Mr. Weigel has a few questions for
 [9] you as well.

EXAMINATION BY MR. WEIGEL:

[10] Q: Doctor, if you could do us the
 [11] favor of looking at your notes, your handwritten
 [12] notes?
 [13] A: Uh-huh.
 [14] Q: Which I think we have marked as
 [15] Exhibit 10. And I just want to make sure that
 [16] we all have the same understanding of what you
 [17] have written here. So I am going to ask you,
 [18] start by telling us, there is a note written
 [19] vertically in the margin on the first page of
 [20] your notes, where you wrote Michael Stepski?
 [21] A: Stepski. Hold on. Yes. You want
 [22] me to read that?
 [23] Q: Yes. Could you read that, please?

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[1] 2007.
 [2] A: Yes.
 [3] Q: Did you review this letter just
 [4] prior to them coming to see you?
 [5] A: I don't remember. I think I
 [6] skimmed this. I didn't make any use out of it
 [7] at all.
 [8] Q: So the facts that are stated in
 [9] this letter by Mr. Healey, you didn't take them
 [10] into consideration when you reached your
 [11] opinion?
 [12] A: No.
 [13] Q: If you look at your notes now
 [14] again for Mr. Stepski, starting with line ten,
 [15] the first page?
 [16] A: Uh-huh.
 [17] Q: Through line 23, could you please
 [18] read that to us so we understand exactly what
 [19] you have written?
 [20] A: "Then other boat turned toward his
 [21] boat, toward his."
 [22] Q: I am sorry. Starting with line
 [23] ten.
 [24] A: Okay. Show me, sir.

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[1]				
[2]	at and your handwritten notes, it discusses that		A: Yes.	
[3]	Mr. Stepski "heard a noise, looked up and saw		Q: With Mr. Schober and Mr. Roderick.	
[4]	the second boat coming directly toward his		A: Yes.	
[5]	boat"?		Q: There really is not anything	
[6]	A: Yes.		about — Mr. Stepski went into detail?	
[7]	Q: Then a little further down, it		A: Yes.	
[8]	says he estimated the time interval between his		Q: About what time they left?	
[9]	having heard the approach of the second boat and		A: Yes.	
[10]	the actual collision as between 30 and 60		Q: What happened?	
[11]	seconds?		A: Yes.	
[12]	A: Yes, sir.		Q: How they hauled their nets, et	
[13]	Q: Now, did Mr. Stepski describe the		cetera?	
[14]	noise that he heard from the other boat?		A: Yes.	
[15]	A: No.		Q: Did you have discussions with	
[16]	Q: Did you ask him any questions		Mr. Schober and Mr. Roderick about those same	
[17]	about the type of noise that he heard from the		details and they are just not — you just didn't	
[18]	other boat?		write them down?	
[19]	A: No, sir.		A: No, no, not about that part.	
[20]	Q: Now, in the second sentence that I		Q: You did not have a discussion	
[21]	read to you, it says he estimated the time		about that part?	
[22]	interval between his having heard the approach		A: No.	
[23]	of the second boat. Are we to imply from that		MR. GARGAN: We are	
[24]	that's the noise that he heard? You say he		approaching 5 o'clock.	
[25]	heard the noise, he turned around. And later		MR. WEIGEL: Do you have any	
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[1]				
[2]	you said he heard the approach. I am not		more?	
[3]	sure — I just want to make sure I understand		MR. UNGER: I have two more.	
[4]	that those are the same?		MR. WEIGEL: I am probably	
[5]	A: I think those are the same.		just about done.	
[6]	Q: Same idea?		MR. GARGAN: This is the	
[7]	A: Yes.		\$500 question.	
[8]	Q: He heard something and that's the		MR. WEIGEL: I don't think	
[9]	approach, he heard the boat approaching?		so.	
[10]	A: I believe so.		MR. UNGER: Let me ask real	
[11]	Q: You believe so?		quick.	
[12]	A: Yes.		MR. WEIGEL: I am done.	
[13]	Q: You didn't ask him in any more		REDIRECT EXAMINATION BY MR. UNGER:	
[14]	detail about this? This is what you believed		Q: Doctor, what were — how much did	
[15]	Mr. Stepski was referring to; is that correct?		you charge for your examination of these three	
[16]	A: Yes.		men and rendering your report?	
[17]	Q: Now, you didn't — if I understand		A: Four-fifty hourly and the bill	
[18]	what you did in rendering your opinions, you did		came to 7,000 and change.	
[19]	not go into any detail on the circumstances of		Q: Okay. And did you charge also for	
[20]	the actual collision with Mr. Schober or		preparing for the deposition?	
[21]	Mr. Roderick; is that correct?		A: I haven't yet.	
[22]	A: No. I reviewed the events with		Q: Okay. It's your intention?	
[23]	them as well.		A: But I will, yes.	
[24]	Q: Well, I am looking at your notes		Q: What is your best estimate of the	
[25]	that you made.		cost of the prescription drugs that you feel	

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[1] Q: Line ten. There are lines —
[2] A: "Fishing 30 miles south of
[3] Montauk, outside shipping lanes. Foggy weather.
[4] Left shore at 3:30 a.m. to tender nets. Hauling
[5] nets. Saw another boat on the radar. On course
[6] to pass right by. Kept checking course. His
[7] boat moving slowly. Then other boat turned
[8] toward his boat. Toward his."

[10] I am taking this very rapidly as

[11] he is talking.

[12] Q: I understand.

[13] A: "Instructed crew to untie nets to
[14] enable his boat to get out of way. Felt this
[15] was an emergency. Starting approaching on
[16] radar. Instructed to cut nets. Felt state of
[17] emergency. Then heard noise, looked up and saw
[18] it coming toward him. Mike hit full throttle.
[19] Boat barely started to move. Felt they were
[20] going to die. Underscore. Knew they were going
[21] to die. 'My poor daughter is going to grow up
[22] without a father'."

[23] It must have been daughters, I

[24] just wrote DGT for daughter.

[25] Q: Right.

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[1] A: Then the collision.
[2] "Time interval collision from
[3] hearing sound equals 30 to 60 seconds. Ship had
[4] bulbous bow. Caught his boat on sharp edge and
[5] divided it in two. All three on same portion.
[6] Remembers looking on wall for EPIRB, but wall
[7] was gone. Remain standing. Water entered boat.
[8] Boat started sinking while the ship was going
[9] by. By the time stern passed boat was hovering
[10] below surface water. Men jumped backwards into
[11] water. Water was flat calm. Three of them in
[12] water in oil skins and boots. Mike's boot fell
[13] off. Surprised to be alive."

[15] Q: That's good enough for now. Let
[16] me ask you a couple of questions about what you
[17] just read. And if you would keep Exhibit 10,
[18] those notes in front of you, and look at your
[19] report on Mr. Stepski?

[20] A: Okay.

[21] Q: In the third paragraph, beginning
[22] the third paragraph, you write in the second
[23] sentence, "He and his crew of two men were
[24] fishing 30 minutes south of Montauk"?

[25] A: Uh-huh. Thirty — oh, it should

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[1] be miles.
[2] Q: So which is correct, the notes
[3] that you took or your report?
[4] A: I think it's miles.
[5] Q: Okay. This report talks about
[6] outside the shipping lanes, both the report and
[7] the notes that you read. Did Mr. —
[8] A: Uh-huh.
[9] Q: Did Mr. Stepski tell you or did
[10] you ask him how far outside of the shipping
[11] lanes he was?
[12] A: No. I am not even familiar with
[13] shipping lanes.
[14] Q: You didn't discuss that concept
[15] further with him?
[16] A: No.
[17] Q: How about, it says, in foggy
[18] weather. Did you discuss in any more detail
[19] what Mr. Stepski meant by "foggy weather"?

[20] A: No.

[21] Q: Continuing on that same paragraph
[22] in your report, it says — I think it is down on
[23] the fourth sentence — I will read it. "They
[24] were hauling nets when they saw another boat on

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[1] their radar on course to pass right by them."
[2] Did Mr. Stepski tell you how close
[3] he thought the boat was — the other boat was
[4] going to approach at that point?
[5] A: If it's not written down, he
[6] didn't.
[7] Q: You are sure you wrote down
[8] everything that he told you?
[9] A: I did my best.
[10] Q: That's why I am asking.
[11] A: Yes, I would —
[12] Q: Let me finish my question. That's
[13] why I am asking if these questions I am asking
[14] might refresh your recollection about something
[15] that Mr. Stepski might have told you that you
[16] didn't have an opportunity to write down.
[17] Because, as you said, you were taking notes as
[18] fast as you can.
[19] Do you recall Mr. Stepski saying
[20] anything to you about how close he thought the
[21] other ship was going to pass by?
[22] A: No, sir.
[23] Q: Now, further down in that
[24] paragraph, both in the paragraph that we looked

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[1]
[2] CERTIFICATE
[3]
[4] STATE OF _____;
[5] COUNTY/CITY OF _____;
[6]
[7] Before me, this day, personally appeared
[8] ARNOLD EDWARD MERRIAM, M.D., who, being duly sworn,
[9] states that the foregoing transcript of his/her
[10] Deposition, taken in the matter, on the date, and
[11] at the time and place set out on the title page
[12] hereof, constitutes a true and accurate transcript
[13] of said deposition.
[14]
[15]
[16] ARNOLD EDWARD MERRIAM, M.D.
[17]
[18]
SUBSCRIBED and SWORN to before me this _____
[19]
[20] day of _____, 2008, in the
[21] jurisdiction aforesaid.
[22]
[23]
[24] My Commission Expires Notary Public
[25]

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[1]
[2] DEPOSITION ERRATA SHEET
RE:
[3] FILE NO.
CASE CAPTION: Stepski vs. The M/V Norasia
[4] DEPONENT: Arnold Edward Merriam, M.D.
DEPOSITION DATE: July 11, 2008
[5]
To the Reporter:
[6] I have read the entire transcript of my Deposition
taken in the captioned matter or the same has been
[7] read to me. I request for the following changes
be entered upon the record for the reasons
[8] indicated.
I have signed my name to the Errata Sheet and the
[9] appropriate Certificate and authorize you to
attach both to the original transcript.
[10]
[11]
[12]
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[14]
[15]
[16]
[17]
[18]
[19]
[20]
[21]
[22]
[23] SIGNATURE: _____ DATE: _____
[24] Arnold Edward Merriam, M.D.
[25]

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[1]
[2] CERTIFICATE
[3] STATE OF NEW YORK)
[4]) ss.
[5] COUNTY OF NEW YORK)
[6] I, Leah Allbee, a Registered
Professional Reporter and Notary
[7] Public of the State of New York, do
[8] hereby certify that the foregoing
[9] Deposition, of the witness, Arnold
Edward Merriam, M.D., taken at the
[11] time and place aforesaid, is a true
and correct transcription of my
shorthand notes.
[15] I further certify that I am
neither counsel for nor related to any
party to said action, nor in any way
interested in the result or outcome
thereof.
[20] IN WITNESS WHEREOF, I have
hereunto set my hand this 21st day of
[21] July, 2008.
[22]
[23]
[24] Leah Allbee, RPR
[25]

July 11, 2008

STEPSKI v.
THE M/V NORASIA

[1] ***Merriam***
[2] that these men should be on?
[3] A: I have no idea.
[4] Q: What is your best estimate in
[5] terms of the cost of the therapy that you
[6] believe that they should be getting?
[7] A: I don't know what it's going to
[8] cost for that geographic area. What a
[9] psychiatrist charges an hour in that part of the
[10] world, I don't know.
[11] Q: What are the general rates here?
[12] A: Here for a psychiatrist, it would
[13] typically be 250 an hour or more.
[14] Q: That's for a psychiatrist?
[15] A: Yes.
[16] Q: What about a psychologist?
[17] A: Somewhat less.
[18] Q: Here psychologist?
[19] A: Maybe 175.
[20] Q: And how often a week?
[21] A: Once a week for two years.
[22] Q: Once a week for two years and then
[23] thereafter?
[24] A: And tapering.
[25] Q: Tapering off?

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[1] ***Merriam***
[2] MR. GARGAN: That it's your
[3] fault that it started at 1:15.
[4] MR. UNGER: That's okay. I
[5] am not complaining. Are we
[6] complaining? Just making a note.
[7] MR. WEIGEL: Off the record.
[8] (Time noted: 5:01 p.m.)
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[1] ***Merriam***
[2] A: To perhaps once a month, if
[3] symptoms were in good control.
[4] Q: For another two years or so?
[5] A: Or so, yes.
[6] MR. UNGER: Okay. Well,
[7] thank you very much for your time.
[8] MR. WEIGEL: Thank you very
[9] much, Doctor.
[10] MR. GARGAN: I appreciate
[11] your time.
[12] Can you note the time that
[13] the deposition ended?
[14] THE COURT REPORTER: I have
[15] 5 p.m. Does anyone have a different
[16] time?
[17] MR. WEIGEL: I also will
[18] note that it started at 1:15.
[19] THE WITNESS: Not because of
[20] me. He was here well before. I got
[21] here at 12:30.
[22] MR. GARGAN: We were here.
[23] MR. WEIGEL: Okay. Your
[24] point is?
[25]

[1]

[2]

CAPTION

[3]

[4] The Deposition of ARNOLD EDWARD MERRIAM, M.D., taken
[5] in the matter, on the date, and at the time and place
[6] set out on the title page hereof.

[7]

[8]

[9] It was requested that the deposition be taken by
[10] the reporter and that same be reduced to
[11] typewritten form.

[12]

[13]

[14] The Deponent will read and sign the transcript
[15] of said deposition.

[16]

[17]

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[25]

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